

***United States Court of Appeals
for the Second Circuit***



APPENDIX

74-2278

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UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

-----X
UNITED STATES OF AMERICA

Plaintiff-Appellee

Docket No. 74-2278

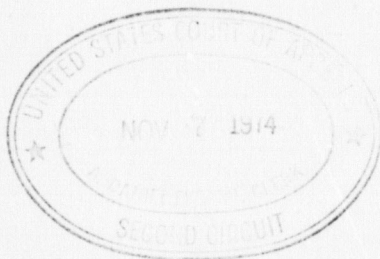
-against-

JOSE RAMIREZ-RAMOS

Defendant-Appellant
-----X

APPENDIX

JOHN C. CORBETT
Attorney for Defendant-Appellant
Office & P.O. Address
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Brooklyn, New York 11201



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74 CRIM. 18

[illegible]

ABSTRACT OF COSTS		AMOUNT		CASH RECEIVED AND DISBURSED			
				DATE	NAME	RECEIVED	DISBURSED
07)							
Fine,				4/24/74	Reed	5-	
Clerk, J.S.S:	3-7-11-21			4/24/74	Frankel	5-	
Marshal,				4/24/74	Theress		10 -
Attorney,				4/24/74	Jones	5-	
Commissioner T. 21,26				4/24/74	Theress		5 -
173,4;4701,4237				4/24/74	Perkins	5-	
nsp.to import & receive & buy				5/2/74	Theress		✓
ecotics in viol. of Fed. Narcotic				5/14/74	Michelin	5-	
ws of the U.S.(Ct.1) Receipt & purchase				5/17/74	Theress		5 -
Heroin(Cts.2-17)				(Seventeen Counts)			

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DATE	PROCEEDINGS	CLERK'S FEES	
		PLAINTIFF	DEFENDANT
11-11-71	1 RAUL ORTEGA-ALVAREZ, a/k/a Raul Ortega-Cts. 1, 2, 3		
12-11-71	2 CIRO RODRIGUEZ-CALANA, a/k/a Ciro A. Calana, a/k/a Ciro Rodriguez-1&2		
12-11-71	3 FRANCISCA ORTEGA-RODRIGUEZ, a/k/a Francisca Rodriguez, a/k/a Paca-Ct. 1		
12-11-71	4 LUIS REYES-PADRON, a/k/a Luis Reyes-1&3		
12-11-71	5 JORGE INFUESTA, a/k/a Hueso, a/k/a George-1&3		
11-11-71	6 JOAQUIN R. PRADA, a/k/a El Gardego, a/k/a El Gallego-1&12		
12-11-71	7 HECTOR ECHEVARRIA, a/k/a Liborio Morales, a/k/a Hector Arnold Echevarria-R		
12-11-71	8 CHARLES BUSIGO-CIFRE, a/k/a Charley Busigo, Charley Cifre, a/k/a Cifire-1&5		
12-11-71	9 DOMINGO DEL CRISTO-1&6		
12-11-71	10 ARMANDO GARCIA-ALVAREZ, a/k/a Armando Garcia, a/k/a Armando Alavarez, a/k/a Andres Alvarez, a/k/a Joaquin Gonzalez, a/k/a El Chino-1&8		
12-11-71	11 JOHN DOE, a/k/a Hugo El Americano, a/k/a Hugo Contero Viera, a/k/a Hugo Viera-1&9 T/N Elias Hugo Viera (see 2-20-74)		
12-11-71	12 JOSE LUIS SARRIA, a/k/a Pepito, a/k/a Pepe, a/k/a Carlos Hernandez-1&10		
12-11-71	13 JOHN DOE, a/k/a Roberto-1		
12-11-71	14 JOSE OTERO, a/k/a Pepe-1&14		
12-11-71	15 FRANCISCO ORLANDO PEREZ, a/k/a Francisco Perez, a/k/a Paco, a/k/a Jose-1&7		
12-11-71	16 ORLANDO GIL, a/k/a Joaquin Gil, a/k/a Joaquin Orlando Gil y Montero, a/k/a Luis Francisco Gil-1&7		
12-11-71	17 Cirillo Figueroa, a/k/a Lazarito, a/k/a Lazaro, El Guajiro-1&11		
12-11-71	18 RIGOBERTO ROSAL-RODRIGUEZ, a/k/a Blaco Serra, a/k/a Blanquito Serra, a/k/a rigo, a/k/a Rigo Rosal, a/k/a Roberto-1&13		
12-11-71	19 JOSE RAMIREZ-RAMOS, a/k/a Jose Ramirez, a/k/a Chevas-1&15	TRUE NAME	JOSE RAMIREZ
12-11-71	20 JOHN DOE, a/k/a Roberto Lopez-1&16		
12-11-71	21 JOSE ANGEL AGUILERA, a/k/a Jose Alberto Aguilera, a/k/a El Moro, a/k/a Mauro, a/k/a Moscoso-1&17		
12-11-71	22 CARLOS TAPANES, a/k/a Charlie-Ct. 1		

DATE	PROCEEDINGS
Jan. 15-74	ECHEVARRIA - (att. present) and interpreter appearing on a writ, pleads not guilty. also was included a bail application which is denied. Writ adjourned to 2/70. Def. remained. -- Metzner, J.
Jan. 25-74	Filed one sealed envelope. Enclosed is an affdt. which was submitted by the govt. pursuant to the court's direction that it explain why it would not divulge the names of witnesses. The court has read the affdt. and finds it sufficient to support the govt's position. This affdt. shall be sealed and delivered to the Clerk of the Court and not opened until further order of the court. So ordered. Metzner, J. (cashier, rm. 602).
Jan. 28-74	Filed Affidavit in Opposition to Def't's. Motions.
Jan. 28-74	Filed Govt. Bill of Particulars
Jan. 30-74	Filed Affidavit for W/H/C Ad Pros. (CIRILLO FIGUEROA)
Jan. 30-74	OTERO - Filed Affidavit for W/H/C AD PROS.
Jan. 30-74	HECTOR ECHEVERRIA - Filed CJA 21 Authorization for Interpreter, original mailed AO Wash. D. C. - Metzner, J.
Jan. 30-74	HECTOR ECHEVERRIA - Filed CJA 21 Approval of payment to Gerardo Sanchez, Interpreter
Feb. 4-74	ECHEVARRIA - Filed CJA 20 Appointment of Robert Mitchell, 51 Chambers T., N.Y. 10007 (original mailed to AO Wash. D.C.)
Feb. 6-74	ECHEVERRIA - Filed CJA 21 Authorization for Interpreter - Gerardo Sanchez --- (original mailed to A.O. Wash. D.C.) - Metzner, J.
Feb. 6-74	ECHEVERRIA - Filed CJA 21 approving payment of interpreter - Metzner, J.
Jan. 22-74	Motion to dismiss as to Carlos Tapanes is granted. - Metzner, J.
Feb. 8-74	ECHEVERRIA - Filed CJA 21 Filed Authorization for Interpreter - Metzner, J.
Feb. 8-74	ECHEVERRIA - Filed CJA 21 Authorization approving payment of interpreter Gerardo Sanchez, 111 W. 177 St., N.Y. (original mailed to AO Wash. D.C.)
Feb. 15-74	CHARLES BUSIG, CIVIL - Second Offender Information
Feb. 15-74	DOMINGO DEL CRISTO - Filed Second Offender Information
Feb. 19-74	HECTOR ECHEVERRIA - Filed Motion to Request Disqualification of Trial, Motion to request change of venue, Motion requesting adjournment and or Severance.
Feb. 19-74	HECTOR ECHEVERRIA - Filed CJA 21 Authorization of Interpreter - Metzner, J. (Original mailed to AO Wash. D.C.)
Feb. 19-74	HECTOR ECHEVERRIA - Filed Copy of CJA 21 approving payment of Interpreter Norma Seltzer, 20 E. 234 St., N.Y.
Feb. 20-74	JORGE INFIERO - Filed Notice of Appearance of John O'Connor, 2100 E. Tremont Av. Bronx, N.Y. (10024-4-7260)
Feb. 20-74	DOMINGO DEL CRISTO - Filed Financial Affidavit

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DATE	PROCEEDINGS
Feb.19-74	ORLANDO GILL with his interpreter and atty present) signs waiver of indictment and Pleads GUILTY to an information #74Cr.180 - Plea Accepted - Metzner, J.
Feb.20-74	RAUL ORTEGA ALVAREZ & HECTOR ECHEVARRIA - through their interpreters plead Not Guilty by reason of Double Jeopardy. The remaining defendants through their interpreters plead NOT GUILTY. The following pleaded NOT GUILTY CIRO RODRIGUEZ CRIANA FRANCISCA ORTEGA RODRIGUEZ JORGE INFIELTA CHARLES BUSIGO-CIFRE DOMINGO DEL CRISTO ARMANDO ALVAREZ ELIAS HUGO VIERA (Substituted for "JOHN DOE a/k/a HUGO EL AMERICANO ETC.") JOSE OTERO CIRILLO FIGUEROA ROBERTO ROAL RODRIGUEZ JOSE ANGEL AGUILERA The defendant JOAQUIN E. PRADA appears in Court on a writ is severed from this indictment. Following names of interpreters GERARDO SANCHEZ LENA JASLOW NELIDA HUGHS JOHLE McCALL MELVIN CHINONES The following defendants appeared in court on a WRIT CIRILLO FIGUEROA HECTOR ECHEVARRIA ROBERTO ROSAL RODRIGUEZ JOSE OTERO Jury empaneled and sworn - Trial Begin
Feb.20-74	Trial Begin
Feb.22-74	RAUL ORTEGA-ALVAREZ - Courts Exhibits received, ordered sealed - Metzner, J.
Feb.25-74	HECTOR ECHEVARRIA - Filed true copy from U.S.C.A. for leave to proceed in forma pauperis to for a writ of mandamus - Anderson, Mansfield, Oakes, J.
Feb.22-74	Filed Memo-endorsed on HECTOR ECHEVARRIA'S Motion dtd 2/19/74--This motion was denied record in open court. So ordered - Metzner, J. (m/n)
Feb.25-74	JORGE INFIELTA - Filed for Approving payment of Counsel John Connor, 2401 E. Tremont Bronx, N.Y. - Metzner, J.
Feb.27-74	RAUL ORTEGA ALVAREZ - Filed memo-endorsed on Motion--Motion denied with leave to renew at rex end of the governments case. So ordered - Metzner, J.
Feb.27-74	Filed one envelope ordered sealed by the Court, Metzner, J.
Mar.1-74	Filed Envelope Court Ordered Sealed w/Cashier--Metzner, J.
Mar.1-74	Filed Affidavit for Writ of Habeas Corpus AD Testificandum Issue.
Mar.1-74	Filed Petition for Writ of Habeas Corpus AD Testificandum to produce Nelson Garcia

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DATE	PROCEEDINGS
2-20-74	Trial Severed as to JOAQUIN R. PRADA, and continued as to: RAUL ORTEGA ALVAREZ: CIRO RODRIGUEZ CALANA: FRANCISCA ORTEGA RODRIGUEZ: JORGE INFESTA: HECTOR ECHEVARRIA: CHARLES BUSICO CIFRE: DOMINGO DEL CRISTO: ARMANDO ALVAREZ: ELIAS HUGO VIERA: JOSE ORTERO: CIRILLO FIGUEROA: RIGOBERTO ROSAL RODRIGUEZ: JOSE ANGEL AGUILERA— METZNER, J.
2-21-74	Trial continued. Gustave Hoffman (interpreter) Sworn - Metzner, J.
2-22-74	Trial continued.
2-25-74	Trial continued. Juror #9 has been excused from any further service in this matter and alternate Juror #1 is now sworn and replaces Juror #9. - Metzner, J.
2-26-74	Trial continued. Miss Enid Pagan (interpreter) sworn. The witness MIGUEL RODRIGUEZ having been brought to Court on a writ of H/C. - Writ Satisfied- Metzner, J.
2-27-74	Trial continued. Alternate Juror #5, excused from any further service in this issue with consent of the defense counsel - Metzner, J.
2-28-74	Trial continued - Metzner, J.
2-27-74	CIRILLO FIGUEROA - Filed CJA 21 - Authorization of Transcript - Metzner, J. (original mailed to ADM. Off. Wash. D.C.)
2-27-74	JOSE ANGEL AGUILERA - Filed CJA 21 - Authorization of Transcript - Metzner, J.
2-27-74	HUGO CONTERO VIERA - Filed CJA 21 - Authorization of Payment of Transcript for Trial - Metzner, J. (original mailed to AO Wash. D.C.)
2-27-74	HECTOR ECHEVARRIA - Filed CJA 21 - Authorization of Payment of Transcript for Trial - Metzner, J. (original mailed to AO Wash. D.C.)
3-7-74	RODRIGUEZ, FRANCISCA & Cirro Rodriguez Calana - Filed Motion for issuance of Subpoena - Metzner, J.
3-1-74	Trial continued - Metzner, J.
3-4-74	Trial continued
3-5-74	Trial continued Emma Tolman sworn in as interpreter - Metzner, J.
3-6-74	Trial continued- Interpreter Norma Seltzer and Margarita Mensa duly sworn. Def. PANIRO GONZALEZ Appeared in Court on a writ. The record also show that Defs. ECHEVARRIA-RIGOBERTO ROSAL RODRIGUEZ-CIRILLO FIGUEROA and JOSE ORTERO have all been appearing in Court on writs. - Metzner, J.
3-7-74	Trial continued - Interpreter Jacqueline Montague - Trial adjourned to 3/11/74 - Metzner, J.
3-7-74	CIRO RODRIGUEZ-CALANA and FRANCISCA ORTEGA RODRIGUEZ - Filed Motion for Issuance of Subpoena
3-13-74	Filed Affidavit for Writ of Habeas Corpus ad Testificandum Issue.
3-14-74	Filed-ELIAS HUGO VIERA - MEMORANDUM OF LAW
3-14-74	Filed-DOMINGO DEL CRISTO - Motion for Judgment of Acquittal and Memorandum of Law.

DATE	PROCEEDINGS
3-14-74	RIGOBERTO ROSAL RODRIGUEZ - Filed Memorandum of Law
3-14-74	ARIANDO GARCIA ALVAREZ et al. - Filed Memorandum of Law
3-14-74	RAUL ORTEGA-ALVAREZ et al - Filed Memorandum of Law.
3-14-74	CHARLES BUSICO CIFRE - Memorandum of Law
3-14-74	Filed Government Memorandum of Law.
3-14-74	JOSE ANGE L AGUILERA - Filed Memorandum of Law, for Judgment of Acquittal
3-14-74	HECTOR ECHEVERRIA - Filed Memorandum of Law
3-14-74	Filed Govt. Affidavit in Response Deft. Echeverria's Motion.
3-14-74	Filed CIRIO FIGUEROA - JOSE OTERO - Filed Defts. Memorandum of Law.
3-15-74	RAUL ORTEGA ALVAREZ - Filed Deft's Requests to Charge
3-15-74	HECTOR ECHEVERRIA - Filed Motion to Requests to Charge.
3-15-74	CIRO RODRIGUEZ-CALANA and FRANCISCA ORTEGA RODRIGUEZ - Filed Defts' Request to Charge
3-15-74	ARIANDO GARCIA ALVAREZ - Requests to Charge on behalf of the Deft.
3-15-74	JOSE ANGEL AGUILERA - Filed Requests to Charge
3-15-74	" " " " Additional Requests to Charge
3-15-74	CHARLES BUSICO CIFRE - Filed Deft's Request to Charge.
3-15-74	Filed Govt's Requests to Charge.
3-11-74	Trial Continued - Hearing on motion to suppress as to Raul Ortega Alvarez. Hearing Held - Motion denied. Trial continued - Govt. Rests - METZNER, J.
3-13-74	Motion to dismiss count Nine as to <u>Rucho Elias Viera</u> is granted
"	Motion to dismiss Counts ONE and THIRTEEN as to <u>RIGOBERTO ROSAL RODRIGUEZ</u> is granted
Mar 14-74	Trial Continued - Metzner, J.
3-19-74	Filed Copy submitted from S.D. of Florida - Hearing on Plea
3-19-74	Filed copy of U.S.C.A 2nd Circuit Petition for a Writ of Habeas Corpus and Prohibition.
3-19-74	Filed CIFRE & ALVAREZ - Govt. Memorandum of Law
3-19-74	Filed Co. et. Memorandum of Law
3-19-74	Filed Govt's Proposed Examination of Inmate active jurors.
Mar. 20-74	Filed one envelope sealed by order of the court. Metzner, J.

S. A. V. RAUL ORTEGA ALVAREZ ET AL

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METZNER, J.

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DATE	PROCEEDINGS
Mar-15-74	Trial Continued
Mar-18-74	Trial continued. The Court strikes from this indictment Overt Acts #23 and #31. All examinations completed - Metzner, J.
Mar-19-74	Trial continued. Jurors requested - Metzner, J.
Mar-20-74	Trial continued - Jurors continue to deliberate. Jurors return verdict. VERDICT: RAUL ORTEGA - GUILTY on counts 1, 2 & 3. Bail continued. Presentence report ordered. Sentence April 22/1974. See minutes of proceedings as to bail conditions. CHARLES BUSIGO CIFRE - GUILTY on counts 1, Not guilty on Ct. 5. Presentence report ordered. Sentence April 22, 1974. <u>DEFENDANTS REMANDED</u> ARMANDO ALVAREZ - GUILTY on Counts 1 & 8. Bail increased to \$15,000.00 defendant has to Friday Mar. 22, 1974 at 12 Noon to post increased bail. Presentence report ordered. Sentence April 22, 1974. See minutes of proceedings as to Bail conditions JOSE OTERO - GUILTY on Counts 1 and 14. Presentence report ordered. Sentence April 22, 1974. Defendant produced in Court on a Writ. CIRILLO FIGUEROA - GUILTY on Counts 1 and 11. Presentence report ordered. Sentence April 22, 1974. Defendant produced in Court on a Writ. JORGE INPIESTA - GUILTY on counts 1 and 3. Presentence report ordered. Sentence April 22, 1974. See minutes of proceedings as to bail conditions. DOMINGO DEL CRISTO - GUILTY ON counts 1 and 6. Presentence report ordered. Sentence April 22, 1974 - <u>DEFENDANT REMANDED</u> CIRO RODRIGUEZ CALANA - GUILTY on Counts 1 and 2. Presentence report ordered. Sentence April 22, 1974 - See minutes of proceedings as to bail conditions. FRANCISCA RODRIGUEZ CALANA - <u>NOT GUILTY on Count 1.</u> HUGO VIERA - <u>NOT GUILTY on Ct. 1.</u> Defendant exonerated from bail. JOSE AGUILERA - <u>NOT GUILTY on Ct. 1 and Ct. 17.</u> HECTOR ECHEVARRIA - <u>NOT GUILTY Counts 1 and 4.</u> Defendant produced in Court on a Writ - METZNER, J. Mar-22-74 CHARLES BUSIGO CIFRE and DOMINGO DEL CRISTO - Filed ORDER - Defts were found GUILTY and face mandatory minimum sentence of 10 yrs. as second offenders. Both Defts. remanded w/o bail pending sentence.....METZNER, J. Mar-29-74 Raul Ortega - Filed Letter dtd 3/1/74 from Morton N. Schwartzman, M.D. 555 Biltmore Way, Coral Gables, Fla. 33134. (re: Children) Mar-29-74 Filed Court Exhibit 12 Verdict as written by Jurors. 3-25-74 JOSE OTERO - Filed ORDER that the Warden in Federal House of Detention grant permission to defendant to Larry NANCY M. AUGIERE upon presentment of a duly authorized clerkman at a time permitted by institution and approved by U.S.

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DATE	PROCEEDINGS
3-22-74	Filed (ARMANDO ALVAREZ) Appearance Bond sum of \$15,000.00
3-27-74	Filed for deft. DEL CRISTO - Affidavit and Notice of Motion for Judgment of Acquittal returnable 3/29/74 at 10AM.
3-27-74	JUAN CONTRERAS - Filed Writ of Habeas Corpus Ad Testificandum Issue.
4-12-74	Filed Government Affidavit in opposition to Raul Ortega Alvarez's motion for the conspiracy charge in Count 1 of Indt. etc.
4-16-74	Filed Transcript of record of proceedings dtd. 2/20, 21, 22, 25, 1974
4-16-74	" " " " " " " 2/26, 27, 28, 3/1, 4, 5, 1974
4-16-74	" " " " " " " 3/14, 15, 18, 19 and 20 1974
4-16-74	" M " " " " " " 3/6, 7, 11, 12, 13, 1974
4-1-74	JOSE RAMIREZ - Filed PRB w/o Security in the sum of \$5,000 - Metzner, J.
4-17-74	RAUL ORTEGA ALVAREZ - Filed Memo-endorsed on Affidavit dtd 4/12/74 -- As indicated - Court denied deft.'s motion for a directed judgment of acquittal -- No affidavits were submitted to support the deft's contention. Rather, reference is made in counsel's brief to the transcript of the change of plea and sentence, all of which occurred on the same day. There was nothing in this transcript that would warrant holding of an evidentiary hearing. Motion denied. So ordered - METZNER, J. (2)
4-22-74	DOMINGO DEL CRISTO - The deft. admits to the 2nd offender information - Metzner, J.
3-27-74	DOMINGO DEL CRISTO - Filed Notice of Motion for Judgment of Acquittal returnable 3/29/74
4-22-74	and Memo-endorsed -- Motion denied So ordered - METZNER, J. (m/n)
4-22-74	JOSE OTERO - Filed CJA Authorization of Joell McCall, Interpreter 300 E. 40th St., N.Y. (original mailed AO Wash. D.C.)
4-22-74	Filed CJA 21 Approving authorization on the above -- METZNER, J.
4-22-74	Filed (ORTEGA ET AL) CJA Authorization of Jacqueline Mortague, 209 E. 56th St., N.Y. (original mailed AO Wash. D.C.)
4-22-74	Filed Copy of CJA 21 Approving payment on the above -- Metzner, J.
4-22-74	Filed CJA 21 -- JOSE OTERO, CIRILLO FIGUEROA -- Authorization of Interpreter Emma Tolson 7 Davison St., E. Rockaway, N.Y. (original mailed to AO Wash. D.C.)
4-22-74	Filed Copy of CJA 21 on the above approving payment (METZNER, J.)
4-22-74	Filed CJA 21 for OTERO & FIGUEROA -- Authorization of Interpreter - Yolanda Francisco 209 Lafayette Av., Bx. N.Y. (original mailed to AO Wash. D.C.)
4-22-74	Filed Copy of CJA 21 on above approving payment -- Metzner, J.
4-22-74	JOSE OTERO - Filed CJA 21 Authorization of Interpreter - Joseph I. Stone, 277 Bway, N.Y. (original mailed to AO Wash. D.C.)
4-22-74	Filed Copy of CJA 21 Approving payment on the above -- METZNER, J.
4-22-74	HECTOR FIGUEROA - Filed CJA 21 Authorization of Interpreter - Ricardo Vidal, 666 Ave 150 St., N.Y. (original mailed to AO Wash. D.C.)
4-22-74	Filed Copy of CJA 21 approving payment on the above -- Metzner, J.

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DATE	PROCEEDINGS
4-22-74	CIRO RODRIGUEZ CALANA - Filed Notice of Appeal to U.S.C.A. 2nd Circuit from Judgment dated 4/22/74 as to sentence imposed. (mailed to Deft. 14-1/2 Third St. Elizabeth, N.J., U.S. Atty's Office.
4-22-74	ARMANDO ALVAREZ - Filed Notice of Appeal to U.S.C.A. 2nd Circuit from Judgt. entered on sentence imposed. mailed to Armando Alvarez 2431 SW 77 ct. Miami, Fla., U.S. Atty.
4-22-74	ARMANDO ALVAREZ - Filed Personal Recognizance Bond pending appeal, sum of \$50,000. Public Service Mutual Ins. Co.
4-22-74	ARMANDO ALVAREZ - Filed Personal Recognizance Bond pending appeal, sum of \$75,000.
4-23-74	JORGE INFESTA - Filed Notice of Appeal to U.S.C.A. from final Judgment 4/22/74 copies mailed to Deft. F.H. of Detention, 427 W. St., N.Y. and U.S. Atty.
4-23-74	DOMINGO DEL CRISTO - Filed Notice of Appeal to U.S.C.A. from the final Judgment entered 4/22/74 - Copies mailed to Deft. Fed. House of Det. 427, W. St., N.Y., U.S. Atty.
4-24-74	DOMINGO DEL CRISTO - Filed Personal Recognizance Bond pending appeal in the sum of \$25,000.00 secured by \$2,500.00 Cash.
4-22-74	CIRO RODRIGUEZ CALANA - Filed JUDGMENT (atty. present) It is adjudged that the defendant is hereby committed to the custody of the Attorney General or his authorized representative for imprisonment for a period of SIX (6) YEARS on each of counts (1) and (2) to run concurrently with each other - METZNER, J. (copies issued)
4-22-74	JORGE INFESTA - Filed JUDGMENT (atty. present) It is adjudged that the defendant is hereby committed to the custody of the Attorney General or his authorized representative for imprisonment for a period of EIGHT (8) YEARS on each of counts (1) and (3) to run concurrently with each other. METZNER, J. (copies issued)
4-22-74	DOMINGO DEL CRISTO - Filed JUDGMENT (atty. present) It is adjudged that the defendant is hereby committed to the custody of the Attorney General or his authorized representative for imprisonment for a period of TEN (10) YEARS on each of counts (1) and (5) to run concurrently with each other - METZNER, J. (copies issued)
4-22-74	ARMANDO ALVAREZ - Filed JUDGMENT (atty. present) It is adjudged that the defendant is hereby committed to the custody of the Attorney General or his authorized representative for imprisonment for a period of EIGHT (8) YEARS on each of counts (1) and (8) to run concurrently with each other - METZNER, J. (copies issued.)
4-22-74	JOSE OTERO - Filed JUDGMENT (atty. present) It is adjudged that the defendant is hereby committed to the custody of the Attorney General or his authorized representative for imprisonment for a period of FIVE (5) YEARS on each of counts (1) and (14) to run concurrently with each other, and to commence upon completion of his imprisonment under the existing sentence now serving. METZNER, J. (copies issued)
4-22-74	CIRO RODRIGUEZ CALANA - Filed JUDGMENT (atty. present) It is adjudged that the defendant is hereby committed to the custody of the Attorney General or his authorized representative for imprisonment for a period of EIGHT (8) YEARS on each of counts (1) and (12) to run concurrently with each other and to commence upon completion of his imprisonment under the existing sentence now served. METZNER, J. (copies issued)

DATE	PROCEEDINGS
4-23-74	CIRO RODRIGUEZ CALANA - Filed Personal Recognizance Bond pending appeal in the sum of \$25,000.00 secured by \$3,000.
4-25-74	HECTOR ECHEVARRIA - Filed CJA 21 Authorization for Transcript from SDCourt Reporter (original mailed to AO Wash.D.C.)
4-25-74	HUGO CONTERO VIERA - Filed CJA 21 Authorization of Transcript from S.D.Court Reporter (original mailed to AO Wash.D.C.)
4-25-74	CIRILLO FIGUEROA - Filed CJA 21 Authorization of Transcript from S.D.Court Reporter (original mailed to AO Wash.D.C.)
4-25-74	JOSE ANGEL AGUILERA - Filed CJA 21 Authorization of Transcript from S.D.Court Reporter (original mailed to AO Wash.D.C.)
4-25-74	Filed Transcript of record of proceedings dtd 2/6/74.
4-30-74	CHARLES BUSICO CIFRE - --- --- endorsed on copy of Second Offender Information. Deft. with his attorney present admits the charge in this information and is the person named herein--METZNER,J.
4-29-74	PAUL ORTEGA ALVAREZ - Filed Notice of Motion returnable 4/29/74 at 10 o'clock for an order granting an evidentiary hearing etc.
4-29-74	RAUL ORTEGA ALVAREZ - Filed Government's Affidavit in Opposition to deft. request of hearing.
4-29-74	RAUL ORTEGA ALVAREZ - Filed JUDGMENT (attorney present) It is adjudged that the deft. is hereby committed to the custody of the Attorney General or his authorized representative for imprisonment for a period of TWELVE (12) YEARS on each of counts (2) and (3) to run concurrently with each other - METZNER,J. (copies issued)
4-30-74	CHARLES BUSICO CIFRE - Filed JUDGMENT (atty. present) It is adjudged that the deft. hereby committed to the custody of the Attorney General or his authorized representative for imprisonment for a period of TEN(10) YEARS on count One (1) - METZNER,J. (copies issued)
4-30-74	CHARLES BUSICO CIFRE - Filed Notice of Appeal - Appellant sentenced 4/30/74 on conviction on Count 1 of the Indictment by a Jury on March 20, 1974 (mailed notices to Deft. and Hermena Perlmutter, 258 Bway, N.Y. 10007)
5-1-74	CIRILLO FIGUORA - Filed notice of appeal from judgment entered on April 22-74 m/n.
5-1-74	RAUL ORTEGA-ALVAREZ - Filed notice of appeal from judgment entered on April 29-74, m/n.
5-1-74	RAUL ORTEGA-ALVAREZ - Filed Affidavit of Mot. L. Motion
5-1-74	DOMINGO DEL CRISTO - Filed Remand w/ bond's return dtd. 4/24/74
5-1-74	CIRO RODRIGUEZ CALANA - Filed Appeal w/ bond's return dtd 4/23/74
5-1-74	JOSE OTERO - Filed letter received from Judge Metzner re: Waiver of Appeal, and copy of letter from Deft. on appeal.
5-19-74	RAUL ORTEGA ALVAREZ - Received copy of hearing transcript of Florida

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DATE	PROCEEDINGS
May 6-74	Bail application on behalf of Charles Busigo Cifre through his attorney. Bail application denied - METZNER, J.
May 6-74	Govt. moves to exonerate the defendant Raul Ortega Alvarez from bail set by magistrates in Florida and received and filed in this district Nov. 7, 1973. Bail was \$ 10,000.00 surety bond. Motion granted - METZNER, J.
5-1-74	REYES PARDON, Luis - CLOSED STATISTICALLY BECAUSE DEFT. IS A FUGITIVE IN ALL THIS CASE IS STILL PENDING
5-1-74	SARRIA, Jose Luis - CLOSED STATISTICALLY BECAUSE DEFT. IS A FUGITIVE
5-1-74	DOE, JOHN - CLOSED STATISTICALLY BECAUSE DEFT. IS A FUGITIVE
5-1-74	PEREZ, Francisco Orlando - CLOSED STATISTICALLY BECAUSE DEFT. IS A FUGITIVE.
5-1-74	DOE, John - CLOSED STATISTICALLY BECAUSE DEFT. IS A FUGITIVE.
5-7-74	Joaquin Roberto Prada - Filed notice of Appearance of Gino P. Negretti, 3061 N.W. 7th St., Miami, Florida 33125 - (42-5104)
5-7-74	RAUL ORTEGA - Filed P.R.B. Pending appeal in the sum of \$50,000 surety-Midland Ins. ALVAREZ
5-7-74	RAUL ORTEGA - Filed Unsecured P.R.B. Pending appeal in the sum of \$25,000.00
5-7-74	RAUL ORTEGA ALVAREZ - Filed AMENDED JUDGMENT (atty. present) It is adjudged that defendant is hereby committed to the custody of the Attorney General or his authorized representative for imprisonment for a period of TWELVE(12) YEARS on each of counts 1, 2 and 3 to run concurrently with each other. Bail pending appeal is increased to \$75,000.00 secured by a \$50,000.00 surety bond and a \$25,000.00 P.R.B. The defendant is remanded in lieu of bail. Special provision of bail being that the defendant is to continue reporting to the Drug Enforcement Administration weekly as in the past (in Florida where the deft. resided) METZNER, J. (copies issued)
5-8-74	ARMANDO ALVAREZ - Filed Remand w/Marshal's return dtd 5/2/74
5-8-74	Cifre - Filed Remand w/Marshal's return dtd 5/2/74
5-8-74	CIFRE - Filed Remand w/Marshal's return 3/21/74
5-10-74	HECTOR ECHEVARRIA - Filed CJA 20 - Appointment of Robert Mitchell, Esq., 51 Chambers St., N.Y. 10007 - Original mailed AO Wash.D.C. METZNER, J.
5-10-74	CIRO RODRIGUEZ CALANA - Filed CJA 20 - Appointment of Hudson H. Reid, 70 Lafayette St. N.Y., original mailed AO Wash.D.C. METZNER, J.
5-10-74	ORTEGA ALVAREZ ET AL - Filed CJA 21 For Authorization of xxxxxxx Interpreter Myrtelina Jaslow, 2080 Coyle St., Brooklyn, N.Y. Original mailed AO Wash.D.C.
5-10-74	CIRO RODRIGUEZ CALANA - Filed CJA 20 Appointment of atty. approving xxxxxxx METZNER, J.
5-13-74	ORTEGA - Deft. produced on a writ (atty present) Deft. pleads NOT GUILTY Case referred to Metzner, J. Bail continued as previously filed by the Magistrate at \$25,000 Cash as on Ind. 73 Cr. 250. Deft. Remanded in lieu of bail.

DATE	PROCEEDINGS
5-17-74	ORLANDO GILL = Filed CJA 20 Appointment of Jesse Berman, 351 Ave. N.Y. Control. (original mailed to AUWash.D.C.)
5-20-74	FIGUEROA & OTERO - Filed CJA 20 Appointment of Counsel Joseph I. Stone 277 Ave. N.Y. (original mailed to AO Wash.D.C.)
5-20-74	JORGE INFESTA - Filed CJA 20 Appointment of counsel of John O'Connor 2401 E. Tenth Ex.N.Y. (orig. mailed to AO Wash.D.C.) METZNER, J.
5-20-74	FRANCISCA ORTEGA CALANA Filed CJA 20 approving payment of counsel - METZNER, J.
5-20-74	FRANCISCA ORTEGA CALANA Filed CJA 20 Appointment of counsel Hudson H. Reid, 70 Y N.Y. (original mailed to AO Wash.D.C.)
5-22-74	ALVAREZ Filed Original record on appeal transmitted to U.S.C.A. this date.
5-31-74	RAUL ORTEGA ALVAREZ-Filed Motion to have counsel appointed pursuant to Criminal J (Harvey J. Michelman appointed as atty.)
5-31-74	HECTOR ECHEVERRIA - Filed CJA 21 Authorization of Interpreter Gerardo Sanchez, 717 E. N.Y. - METZNER, J.
5-31-74	ECHEVERRIA - Filed Copy of CJA 21 approving payment of Interpreter - METZNER, J. (original filed AO Wash.D.C.)
6-14-74	RAUL ORTEGA ALVAREZ - Filed Supplemental record on appeal in U.S.C.A. this date.
6-13-74	Filed transcript of proceedings dtd April 22 1974
6-18-74	FRANCISCO PEREZ - Filed Affidavit for Writ of Habeas Corpus ad Prosequendum
6-21-74	CHARLES BUSIGO CIFRE - Filed Supplemental Motion for Bail Pending Appeal
6-21-74	CIFRE- Filed Memo-endorsed re:Supplemental Motion -- This application for bail pending appeal is denied. There was a similar application made at the time sentence was a final order entered on March 21, 1974. Nothing new is contained in this motion aside from a conclusion statement as deft. will submit 2 affidavits proving his innocence, this is insufficient to call for a granting of the application. Appeal denied - METZNER, J.
JUNE-23-74	FRANCISCO ORLANDO PEREZ- Filed Judgment that the defendant is committed to the custody of the Attorney General or his authorized representative for imprisonment for a period of FIVE (5) YEARS on count 1. It is adjudged that this sentence is to run concurrently with the sentence imposed by Judge Milton Pollack in 70 CR 520 in the SDNY for the S.D. of NY. Count 7 is dismissed on motion of the defendant's counsel with the consent of the Government. Writ satisfied. -- Metzner, J. copies issued. (1 copy submitted with record of government on 6/25/74)
JUNE-25-74	FRANCISCO ORLANDO PEREZ - Deft. with his atty. present, withdraws his plea of not guilty and pleads guilty to count 1. Deft. produced on writ. The defendant is now being sentenced (see judgment), Curtis, J.

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DATE	PROCEEDINGS
Jul- 2-74	CHARLES BUSIGO CIFRE- Filed def't's affdvt. and notice of suppl. motion for bail pending appeal.
Jul- 8-74	JOSE RAMIREZ-RAMOS- Filed Governments affdvt. for a W/H/C. to produce Ramiro Gonzalez as a witness - writ issued - ret. 7-15-74
2-12-74	Filed Transcript of record of proceedings, dated January 14, 1974
2-12-74	Filed Transcript of record of proceedings, dated January 22, 1974
7-16-74	JOAQUIN R. PRADA - Filed JUDGMENT (atty present) It is adjudged that the defendant is hereby committed to the custody of the Attorney General or his authorized representative for imprisonment for a period of FIVE (5) YEARS on count TWELVE(12) METZNER, J. (copies issued) -- It is adjudged that this sentence is to run concurrently with the sentence imposed by the Hon. Dudley B. Bonsal in 70CR 524 on 2/19/71, here in the SDNY - METZNER, J.
7-16-74	JOAQUIN R. PRADA with his atty. present and the AUSA, withdraws his plea of not guilty to Count Twelve (12) and pleads GUILTY to count TWELVE(12). Plea accepted. The def't. appearing in court on a writ of H/C and by Maria E. Cardenas (interpreter) The court having asked the def't. if he was ready for sentencing. The def't. responded in the affirmative - (judgment above)
7-16-74	Perez - Filed comm. on appeal, delivered to James D. Kelly Comm.
7-18-74	PRADA - Filed CJA 21 Appointment of Maria Elena Cardenas, Interpreter, 319 E. 93rd St. AO Wash. D.C. METZNER, J.
7-18-74	PRADA - Filed CJA 21 Approving payment re: above
7-18-74	PEREZ - Filed CJA 21 Authorization of Lunita Adler, 69-17 Harrow St., Forest Hills, N.Y. AO Wash. D.C. METZNER, J.
7-18-74	PEREZ - Filed CJA 21 approving payment re: above.
7-25-74	RAMOS - Filed Notice of appearance of John C. Corrett, 66 Court St., Bklyn, N.Y.
7-25-74	RAMOS - Filed Def't's proposed examination of prospective Jurors.
7-25-74	RAMOS - Filed Gov't's. Proposed examination of prospective Jurors
7-25-74	RAMOS - Filed comm. on appeal, delivered to James D. Kelly Comm.
7-25-74	RAMOS - Trial begun. Jury empaneled and sworn. The court revokes the def't's and Remands him - Metzner, J.
7-26-74	Trial cont. The defendant Jose Ramirez Gonzales having admitted on the stand that he is the person so named in indictment #74Cr.18 as Jose Ramirez Ramos Trial concluded. Defendant GUILTY on count One(1) Not Guilty on Count 15 - Jurors polled - Presentence report ordered Sentence 9/23/74 = Bail set at \$10,000.00 cash or surety. Def't. remanded until noon Monday 7/29/74 - METZNER, J.
7-26-74	RAMOS - Filed Memorandum of Law and Government's requests to charge.
7-26-74	GARCIA - Filed Writ Satisfied - Duffy, J.

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DATE	PROCEEDINGS
7-2-74	Filed Writ Satisfied - Metzner, J. (Francisco Perez)
8-7-74	ROSL CRISTEN-FILED- Filed notice that the airtel. request on appeal been certified and transmitted to the U.S.C.A. for the 2nd Circuit.
8-5-74	JOSE RAMIREZ RAMOS- Filed record dated 7-26-74
8-7-74	Filed transcript of proceedings dtd April 7 1974.
8-19-74	Filed Transcript of record of proceedings, dated April 30 May 6 - 74
8-14-74	JOSE CTERO- Filed Writ/C - writ returned on 8-8-74 without further adjournment - VE Atty. to supply further date.
8-14-74	JOSE CTERO- Filed memo endorsed on deft's motion to reduce sentence. The Court having reviewed the record in this case, this motion for reduction of sentence is denied. So ordered. - Metzner, J. m/r
8-20-74	Filed Notice of Motion returnable at a date set by the court, for an order directing hearing to determine basis for new trial; and directing the production of records for the purpose of hearing and directing a reversal of the conviction etc.
8-23-74	JOSE RAMIREZ RAMOS - Filed JUDGMENT (atty present) It is adjudged that the defendant hereby committed to the custody of the Attorney General or his authorized agent for imprisonment for a period of FIVE(5) YEARS on count One (1). - METZNER, J. (issued)
8-27-74	Filed Notice of Appeal of Deft. JOSE RAMIREZ RAMOS to the U.S.C.A. for the 2nd Cir. from the final judgment entered 8/23/74. Mailed Deft. & U.S. Atty copy

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UNITED STATES OF AMERICA
SOUTHERN DISTRICT OF NEW YORK

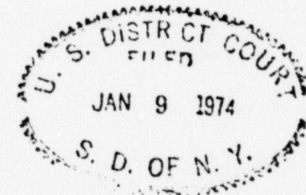
74 CML 18

UNITED STATES OF AMERICA

- v -

INDICTMENT

74 Cr.



- 1-2 RAUL ORTEGA-ALVAREZ, a/k/a Raul
Ortega,
1-3 CIRIO RODRIGUEZ-CALANA, a/k/a Cirio A.
Calana, a/k/a Cirio Rodriguez,
1-4 FRANCISCA ORTEGA-RODRIGUEZ, a/k/a
Francisca Rodriguez, a/k/a "Paca,"
1-5 LUIS REYES-PADRON, a/k/a Luis Reyes,
1-6 JORGE INDIESTA, a/k/a "Huesco," a/k/a
"George,"
1-7 JOAQUIN R. PRADA, a/k/a "El Gardego,"
a/k/a "El Galleno,"
1-8 HECTOR ECHIVARRIA, a/k/a Liborio
Morales, a/k/a Hector Arnold
Echevarria-Rios,
1-9 CHARLES BUSIGO-CIFRE, a/k/a Charley
Cifre, a/k/a Charley Busigo, a/k/a
Cifire,
1-10 DOMINGO DEL CRISTO,
1-11 ARMANDO GARCIA-ALVAREZ, a/k/a Armando
Alvarez, a/k/a Armando Garcia, a/k/a
Andres Alvarez, a/k/a Joaquin
Gonzalez, a/k/a "El Chino,"
1-12 JOHN DOE, a/k/a "Hugo El Americano,"
a/k/a Hugo Contere Viera, a/k/a
Hugo Viera,
1-13 JOSE LUIS SERRA, a/k/a "Pepito,"
a/k/a "Pete," a/k/a Carlos
Bernandez,
1-14 JOHN DOE, a/k/a "Roberto,"
1-15 JOSE CUIPO, a/k/a "Paco,"
1-16 FRANCISCO ORLANDO GIL, a/k/a
Francisco Perez, a/k/a "Paco,"
a/k/a "Joey,"
1-17 ORLANDO GIL, a/k/a Joaquin Gil,
a/k/a Orlando Joaquin Gil, a/k/a
Joaquin Orlando Gil y Montoro,
a/k/a Luis Francisco Gil,
1-18 CIRILO FIGUEROA, a/k/a "Mararito,"
a/k/a "Lolero," a/k/a "El
Quajiro,"
1-19 RICARDO ROBAL-RODRIGUEZ, a/k/a
"Blanco Serra," a/k/a "Blancuito
Serra," a/k/a "Rico," a/k/a
"Rico Rosal," a/k/a "Roberto,"
1-20 JOSE RAMIREZ-BAJOS, a/k/a Jose
Ramirez, a/k/a "Chevas,"
1-21 JOHN DOE, a/k/a Roberto Lopez,
1-22 JOSE ANGEL ACHUTTA, a/k/a Jose
Albergo Achutera, a/k/a "El Negro,"
a/k/a "Mauro," a/k/a "Moscoso,"
1-23 CARLOS SARANTO, a/k/a "Charlie,"

Defendants.

COUNT ONE

The Grand Jury charges:

1. From on or about the first day of December, 1973,
and continuously thereafter up to and including on or about

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April 30, 1971, in the Southern District of New York and elsewhere,

RAUL ORTEGA-ALVAREZ, a/k/a Raul Ortera,
CIRO RODRIGUEZ-CALANA, a/k/a Ciro A. Calana, a/k/a Ciro Rodriguez,
FRANCISCA ORTEGA-RODRIGUEZ, a/k/a Francisca Rodriguez, a/k/a "Paca,"
LUIS REYES-PADRON, a/k/a Luis Reyes,
JORGE INFIESTA, a/k/a "Hueso," a/k/a "George,"
JOAQUIN R. PRADA, a/k/a "El Gardego," a/k/a "El Gallero,"
HECTOR ECHEVARRIA, a/k/a Liborio Morales, a/k/a Hector Aronld Echevarria-Rios,
CHARLES BUSIGO-CIFRE, a/k/a Charley Cifre, a/k/a Charley Busigo, a/k/a Cifire,
DOMINGO DEL CRISTO,
ARMANDO GARCIA-ALVAREZ, a/k/a Armando Alvarez, a/k/a Armando Garcia, a/k/a Andres Alvarez, a/k/a Joaquin Gonzalez, a/k/a "El Chino,"
JOHN DOE, a/k/a "Hugo El Americano," a/k/a Hugo Contero Viera, a/k/a Hugo Viera,
JOSE LUIS SARRIA, a/k/a "Pepito," a/k/a "Pepe," a/k/a Carlos Hernandez,
JOHN DOE, a/k/a "Roberto,"
JOSE OTERO, a/k/a "Pepe,"
FRANCISCO ORLANDO PEREZ, a/k/a Francisco Perez, a/k/a "Paco," a/k/a "Jose,"
ORLANDO GIL, a/k/a Joaquin Gil, a/k/a Orlando Joaquin Gil, a/k/a Joaquin Orlando Gil y Montero, a/k/a Luis Francisco Gil,
CIRILLO FIGUEROA, a/k/a "Lazarito," a/k/a "Lazaro," a/k/a "El Guajiro,"
RIGOBERTO ROSAL-RODRIGUEZ, a/k/a "Blanco Serra," a/k/a "Blanquito Serra," a/k/a "Rigo," a/k/a "Rigo Rosal," a/k/a "Roberto,"
JOSE RAMIREZ-RAMOS, a/k/a Jose Ramirez, a/k/a "Chevas,"
JOHN DOE, a/k/a Roberto Lopez,
JOSE ANGEL AGUILERA, a/k/a Jose Alberto Aguilera, a/k/a "El Moro," a/k/a "Mauero," a/k/a "Moscoso,"
CARLOS TAPANES, a/k/a "Charlie,"

the defendants, and Ramiro Gonzalez and Miguel Rodriguez, named herein as co-conspirators but not as defendants, and others to the Grand Jury known and unknown, unlawfully wilfully, intentionally and knowingly combined, conspired, confederated and agreed together and with each other to violate Sections 173 and 174 of Title 21, United States Code and Sections 4701, 4703, 4704(a), 4771(a) and 7237(a) of Title 26, United States Code.

2. It was part of said conspiracy that the said defendants and co-conspirators unlawfully, wilfully and knowingly

would import and bring into the United States large quantities of narcotic drugs, the exact amount and nature thereof being to the Grand Jury unknown in violation of Sections 173 and 174 of Title 21, United States Code.

3. It was further part of said conspiracy that the said defendants and co-conspirators, unlawfully, wilfully and knowingly would receive, conceal, possess, buy, sell and facilitate the transportation, concealment and sale of large quantities of narcotic drugs, the exact amount and nature thereof being to the Grand Jury unknown, after the said narcotic drugs had been imported and brought into the United States contrary to law, knowing that the said narcotic drugs had been imported and brought into the United States contrary to law in violation of Section 173 and 174 of Title 21, United States Code.

4. It was further part of the said conspiracy that the said defendants and co-conspirators unlawfully, wilfully and knowingly would purchase, sell, dispense and distribute a quantity of narcotic drugs, the exact amount and nature thereof being to the Grand Jury unknown, in that the said narcotic drugs would not be in the original stamped package or from the original stamped package, that is to say, that there would not be affixed to the container in and from which the said defendants would purchase, sell, dispense and distribute the narcotic drugs as aforesaid any United States Internal Revenue Stamps as required by Section 4703 of Title 26, United States Code, in violation of Sections 4701, 4703, 4704(a), and 7237(a) of Title 26, United States Code.

OVERT ACTS

In pursuance of the said conspiracy and to effect the objects thereof, the following overt acts were committed in the Southern District of New York and elsewhere:

1. In or about March, 1970, the defendant RAUL ORTEGA-ALVAREZ met with co-conspirator Ramiro Gonzalez in Miami, Florida.
2. In or about March, 1970, the defendant RAUL ORTEGA-ALVAREZ and co-conspirator Ramiro Gonzalez flew from Miami, Florida to Newark, New Jersey.

3. On or about March 12, 1970, the defendant RAUL ORTEGA-ALVAREZ registered and stayed in the Saxony Motel, 330 Atlantic Avenue, Elizabeth, New Jersey.

4. On or about March 12, 1970, the defendant RAUL ORTEGA-ALVAREZ and co-conspirator Ramiro Gonzalez met with the defendants CIRO RODRIGUEZ-CALANA and FRANCISCA ORTEGA-RODRIGUEZ at 38 Rankin Street, Elizabeth, New Jersey.

5. On or about March 12, 1970, the defendants JORGE INFIESTA and LUIS REYES-PADRON received approximately one kilogram of heroin from the defendant RAUL ORTEGA-ALVAREZ in an apartment at 666 W. 162nd Street, New York, New York.

6. On or about March 13, 1970, defendant JOAQUIN R. PRADA and co-conspirators Ramiro Gonzalez and Miguel Rodriguez delivered approximately one kilogram of heroin at the C.B.C. Gas Station, 2120 Amsterdam Avenue, New York, New York.

7. On or about March 13, 1970, the defendants RAUL ORTEGA-ALVAREZ, JORGE INFIESTA and LUIS REYES-PADRON met in an apartment at 666 W. 162nd Street, New York, New York.

8. On or about March 16, 1970, the defendant RAUL ORTEGA-ALVAREZ entered Luigi's Restaurant & Bar, 4199 Broadway, New York, New York.

9. On or about March 31, 1970, the defendant CARLOS TAPANES delivered approximately one kilogram of heroin in the parking lot of the Hicksville Diner, Old Country Road and South Oyster Bay Road, Hicksville, Long Island.

10. In or about March, 1970, the defendant RAUL ORTEGA-ALVAREZ delivered approximately one kilogram of heroin to the defendant LUIS REYES-PADRON at 38 Rankin Street, Elizabeth, New Jersey.

11. In or about March or April, 1970, the defendant RAUL ORTEGA-ALVAREZ delivered approximately two kilograms of heroin to the defendants JORGE INFIESTA and LUIS REYES-PADRON in an apartment at 666 W. 162nd Street, New York, New York.

12. In or about March, 1970, co-conspirators Ramiro Gonzalez and Miguel Rodriguez met with the defendants FRANCISCO ORLANDO PEREZ and ORLANDO GIL.

13. On or about March 24, 1970, the defendants FRANCISCO ORLANDO PEREZ and ORLANDO GIL met at 572 W. 173rd Street, New York, New York.

14. On or about March 24, 1970 the defendant FRANCISCO ORLANDO PEREZ went to the Blue Mirror Bar, 3347 Broadway, New York, New York.

15. In or about March or April, 1970, the defendant HECTOR ECHEVARRIA received approximately 1/2 kilogram of heroin at 380 Audubon Avenue, New York, New York.

16. In or about March or April, 1970, co-conspirators Ramiro Gonzalez and Miguel Rodriguez had a conversation with the defendant CHARLES BUSIGO-CIFRE in the vicinity of the C.B.C. Gas Station, 2120 Amsterdam Avenue, New York, New York.

17. In or about March or April 1970, co-conspirators Ramiro Gonzalez and Miguel Rodriguez delivered approximately 1/2 kilogram of heroin for the defendant CHARLES BUSIGO-CIFRE to John Doe in the vicinity of the C.B.C. Gas Station 2120 Amsterdam Avenue, New York, New York.

18. In or about March or April, 1970, the defendant JOAQUIN R. PRADA received a sum of cash from the defendant CHARLES BUSIGO-CIFRE.

19. In or about March or April, 1970, the defendants CHARLES BUSIGO-CIFRE and HECTOR ECHEVARRIA met at 380 Audubon Avenue, New York, New York.

20. In or about March or April, 1970, co-conspirator Ramiro Gonzalez met with the defendant DOMINGO DEL CRISTO at the Gallo de Maron bar, 3922 Broadway, New York, New York.

21. In or about March or April, 1970, the defendants ARMANDO GARCIA-ALVAREZ and JOHN DOE, a/k/a "Hugo El Americano" met at a bar in the Alamac Hotel, A & B Bar and Lounge, 2056 Broadway, New York, New York.

22. In or about March or April, 1970, the defendant ARMANDO GARCIA-ALVAREZ met with co-conspirator Ramiro Gonzalez in Miami, Florida.

23. In or about March or April, 1970, the defendant JOHN DOE, a/k/a "Hugo El Americano" received approximately two kilograms of heroin in an apartment at 804 W. 180th Street, New York, New York.

24. In or about March or April, 1970, the defendant RAUL ORTEGA-ALVAREZ and co-conspirators Ramiro Gonzalez and Miguel Rodriguez delivered one kilogram of heroin to the defendant ARMANDO GARCIA-ALVAREZ in the vicinity of 158th Street and Broadway, New York, New York.

25. In or about March or April, 1970, the defendants JOSE LUIS SARRIA and JOHN DOE, a/k/a "Roberto" received approximately 1 1/2 kilograms of heroin in Hudson County, New Jersey.

26. In or about March or April, 1970, co-conspirator Ramiro Gonzalez met with the defendant JOSE OTERO at the Gallo de Maron bar, 3922 Broadway, New York, New York.

27. In or about March, of April, 1970, the defendant JOSE OTERO received approximately one kilogram of heroin in the vicinity of the Cuba Bar, 1475 St. Nicholas Avenue, New York, New York.

28. In or about March or April, 1970, co-conspirators Ramiro Gonzalez and Miguel Rodriguez met with the defendant CIRILLO FIGUEROA at the 005 Bar, 3865 Broadway, New York, New York.

29. In or about March or April, 1970, co-conspirator Ramiro Gonzalez delivered approximately one kilogram of heroin for the defendant CIRILLO FIGUEROA to John Doe in an apartment at 804 W. 180th Street, New York, New York.

30. In or about March or April, 1970, co-conspirator Miguel Rodriguez delivered approximately one kilogram of heroin for the defendant CIRILLO FIGUEROA to the defendant RIGOBERTO ROSAL-RODRIGUEZ at the C.B.C. Gas Station, 2120 Amsterdam Avenue, New York, New York.

31. In or about March or April, 1970, the defendant CARLOS TAPANES delivered one kilogram of heroin to the defendant CIRILLO FIGUEROA in the vicinity of 145th Street and Broadway, New York, New York.

32. In or about March or April, 1970, the defendant JOAQUIN R. PRADA handed 1 1/2 kilograms of heroin to the defendant CIRILLO FIGUEROA in an apartment at 790 Riverside Drive, New York, New York.

33. In or about March or April, 1970, the defendant JOSE RAMIREZ-RIOS received approximately 1/2 kilogram of heroin at the El Bayames Restaurant, 1279 St. Nicholas Avenue, New York, New York.

34. In or about March or April, 1970, the defendant JOHN DOE, a/k/a Roberto Lopez, received approximately 1/2 kilogram of heroin at the Gallo de Maron bar, 3924 Broadway, New York, New York.

35. In or about March or April, 1970, the defendant JOSE ANGEL AGUILARA transported 1/2 kilogram of heroin from Elizabeth, New Jersey, to New York, New York.

(Title 21, United States Code, Sections 173 and 174 and Title 26, United States Code, Sections 4701, 4703, 4704(a), 4771(a) and 7237(a).)

COUNT TWO

The Grand Jury further charges:

On or about March 12, 1970, in the Southern District of New York, RAUL ORTEGA-ALVAREZ, a/k/a Raul Ortega, and CIRO RODRIGUEZ-CALANA, a/k/a Ciro A. Calana, a/k/a Ciro Rodriguez, the defendants, unlawfully, wilfully and knowingly did receive, conceal, buy, sell and facilitate the transportation, concealment and sale of a narcotic drug, to wit, approximately twenty kilograms of heroin, after the said narcotic drug had been imported and brought into the United States contrary to law, knowing that the said narcotic drug had theretofore been imported and brought into the United States contrary to law in that the importation and bringing of any narcotic

drug into the United States, except such amounts of crude opium and coca leaves as the Director of the Bureau of Narcotics and Dangerous Drugs finds to be necessary to provide for medical and legitimate uses only, is prohibited.

(Title 21, United States Code, Sections 173 and 174 and Title 18, United States Code, Section 2.)

COUNT THREE

The Grand Jury further charges:

In or about the month of March, 1970, in the Southern District of New York, RAUL ORTEGA-ALVAREZ, LUIS REYES-PADRON, a/k/a "Luis Reyes", and JORGE INFUESTA, a/k/a "Hueso", a/k/a "George", the defendants, unlawfully, wilfully and knowingly did receive, conceal, buy, sell and facilitate the transportation, concealment and sale of a narcotic drug, to wit, approximately one kilogram of heroin, after the said narcotic drug had been imported and brought into the United States contrary to law, knowing that the said narcotic drug had theretofore been imported and brought into the United States contrary to law in that the importation and bringing of any narcotic drug into the United States, except such amounts of crude opium and coca leaves as the Director of the Bureau of Narcotics and Dangerous Drugs finds to be necessary to provide for medical and legitimate uses only, is prohibited.

(Title 21, United States Code, Sections 173 and 174 and Title 18, United States Code, Section 2.)

COUNT FOUR

The Grand Jury further charges:

In or about the month of March or April, 1970, in the Southern District of New York, HECTOR ECHEVARRIA, a/k/a Liberio Morales, a/k/a Hector Arnold Echevarria-Rios, the defendant, unlawfully, wilfully and knowingly did receive, conceal, buy, sell and facilitate the transportation, concealment and sale of a narcotic drug, to wit, approximately 1/2 kilogram of heroin, after the said narcotic drug had been imported and brought into the United States contrary

to law, knowing that the said narcotic drug had theretofore been imported and brought into the United States contrary to law in that the importation and bringing of any narcotic drug into the United States, except such amounts of crude opium and coca leaves as the Director of the Bureau of Narcotics and Dangerous Drugs finds to be necessary to provide for medical and legitimate uses only, is prohibited.

(Title 21, United States Code, Sections 173 and 174 and Title 18, United States Code, Section 2.)

COUNT FIVE

The Grand Jury further charges:

In or about the months of March and April, 1970, in the Southern District of New York, CHARLES BUSIGO-CIFRE, a/k/a Charley Cifre, a/k/a Charley Busigo, a/k/a Cifire, the defendant, unlawfully, wilfully and knowingly did receive, conceal, buy, sell and facilitate the transportation, concealment and sale of a narcotic drug, to wit, approximately one kilogram of heroin, after the said narcotic drug had been imported and brought into the United States contrary to law, knowing that the said narcotic drug had theretofore been imported and brought into the United States contrary to law in that the importation and bringing of any narcotic drug into the United States, except such amounts of crude opium and coca leaves as the Director of the Bureau of Narcotics and Dangerous Drugs finds to be necessary to provide for medical and legitimate uses only, is prohibited.

(Title 21, United States Code, Sections 173 and 174 and Title 18, United States Code, Section 2.)

COUNT SIX

The Grand Jury further charges:

In or about the months of March and April, 1970, in the Southern District of New York, DOMINGO DEL CRISTO, the defendant, unlawfully, wilfully and knowingly did receive, conceal, buy, sell and facilitate the transportation, concealment and sale of a narcotic drug, to wit, approximately

one kilogram of heroin, after the said narcotic drug had been imported and brought into the United States contrary to law, knowing that the said narcotic drug had theretofore been imported and brought into the United States contrary to law in that the importation and bringing of any narcotic drug into the United States, except such amounts of crude opium and coca leaves as the Director of the Bureau of Narcotics and Dangerous Drugs finds to be necessary to provide for medical and legitimate uses only, is prohibited.

(Title 21, United States Code, Sections 173 and 174 and Title 18, United States Code, Section 2.)

COUNT SEVEN

The Grand Jury further charges:

In or about the month of March, 1971, in the Southern District of New York, FRANCISCO ISLANDO PEREZ, a/k/a Francisco Perez, a/k/a "Paco", a/k/a "Jose", and ORLANDO GIL, a/k/a Joaquin Gil, a/k/a Orlando Joaquin Gil, a/k/a Joaquin Orlando Gil y Mendez, a/k/a Luis Francisco Gil, the defendants, unlawfully, wilfully and knowingly did receive, conceal, buy, sell and facilitate the transportation, concealment and sale of a narcotic drug, to wit, approximately 1/4 kilogram of heroin, after the said narcotic drug had been imported and brought into the United States contrary to law, knowing that the said narcotic drug had theretofore been imported and brought into the United States contrary to law in that the importation and bringing of any narcotic drug into the United States, except such amounts of crude opium and coca leaves as the Director of the Bureau of Narcotics and Dangerous Drugs finds to be necessary to provide for medical and legitimate uses only, is prohibited.

(Title 21, United States Code, Sections 173 and 174 and Title 18, United States Code, Section 2.)

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COUNT EIGHT

The Grand Jury further charges:

In or about the months of March and April, 1970, in the Southern District of New York, ARMANDO GARCIA-ALVAREZ, a/k/a Armando Alvarez, a/k/a Armando Garcia, a/k/a Andres Alvarez, a/k/a Joaquin Gonzalez, a/k/a "El Chino", the defendant, unlawfully, wilfully and knowingly did receive, conceal, buy, sell and facilitate the transportation, concealment and sale of a narcotic drug, to wit, approximately six kilogram of heroin, after the said narcotic drug had been imported and brought into the United States contrary to law, knowing that the said narcotic drug had theretofore been imported and brought into the United States contrary to law in that the importation and bringing of any narcotic drug into the United States, except such amounts of crude opium and coca leaves as the Director of the Bureau of Narcotics and Dangerous Drugs finds to be necessary to provide for medical and legitimate uses only, is prohibited.

(Title 21, United States Code, Sections 173 and 174 and Title 18, United States Code, Section 2.)

COUNT NINE

The Grand Jury further charges:

In or about the months of March and April, 1970, in the Southern District of New York, JOHN DOE, a/k/a "Hugo El Americano", a/k/a Hugo Contero Viera, a/k/a Hugo Viera, the defendant, unlawfully, wilfully and knowingly did receive, conceal, buy, sell and facilitate the transportation, concealment and sale of a narcotic drug, to wit, approximately four kilograms of heroin, after the said narcotic drug had been imported and brought into the United States contrary to law, knowing that the said narcotic drug had theretofore been imported and brought into the United States contrary to law in that the importation and bringing of any narcotic drug into the United States, except such amounts of crude opium and coca leaves as the Director

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Bureau of Narcotics and Dangerous Drugs finds to
be necessary to provide for medical and legitimate uses
only, is prohibited.

(Title 21, United States Code, Sections 173 and 174
and Title 18, United States Code, Section 2.)

COUNT TEN

The Grand Jury further charges:

In or about the months of March and April, 1970,
in the Southern District of New York, JOSE LUIS SARRIA,
a/k/a "Pepito", a/k/a "Pepe", the defendant, unlawfully,
wilfully and knowingly did receive, conceal, buy, sell
and facilitate the transportation, concealment and sale
of a narcotic drug, to wit, approximately two and one-half
kilograms of heroin, after the said narcotic drug had
been imported and brought into the United States contrary
to law, knowing that the said narcotic drug had theretofore
been imported and brought into the United States contrary
to law in that the importation and bringing of any narcotic
drug into the United States, except such amounts of crude
opium and coca leaves as the Director of the Bureau of
Narcotics and Dangerous Drugs finds to be necessary to
provide for medical and legitimate uses only, is prohi-
bited.

(Title 21, United States Code, Sections 173 and 174
and Title 18, United States Code, Section 2.)

COUNT ELEVEN

The Grand Jury further charges:

In or about the months of March and April, 1970,
in the Southern District of New York, CIRILLO FIGUEROA,
a/k/a "Lazarito", a/k/a "Lazaro", a/k/a "El Guajiro",
the defendant, unlawfully, wilfully and knowingly did
receive, conceal, buy, sell and facilitate the transportation,
concealment and sale of a narcotic drug, to wit, approximately
six and one-half kilograms of heroin, after the said narcotic
drug had been imported and brought into the United States
contrary to law, knowing that the said narcotic drug had

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theretofore been imported and brought into the United States contrary to law in that the importation and bringing of any narcotic drug into the United States, except such amounts of crude opium and coca leaves as the Director of the Bureau of Narcotics and Dangerous Drugs finds to be necessary to provide for medical and legitimate uses only, is prohibited.

(Title 21, United States Code, Sections 173 and 174 and Title 18, United States Code, Section 2.)

COUNT TWELVE

The Grand Jury further charges:

In or about the month of March or April, 1970, in the Southern District of New York, JOAQUIN R. PRADA, a/k/a "El Gallego", a/k/a "El Gardego", the defendant, unlawfully, wilfully and knowingly did receive, conceal, buy, sell and facilitate the transportation, concealment and sale of a narcotic drug, to wit, approximately one and one-half kilograms of heroin, after the said narcotic drug had been imported and brought into the United States contrary to law, knowing that the said narcotic drug had theretofore been imported and brought into the United States contrary to law in that the importation and bringing of any narcotic drug into the United States, except such amounts of crude opium and coca leaves as the Director of the Bureau of Narcotics and Dangerous Drugs finds to be necessary to provide for medical and legitimate uses only, is prohibited.

(Title 21, United States Code, Sections 173 and 174 and Title 18, United States Code, Section 2.)

COUNT THIRTEEN

The Grand Jury further charges:

In or about the month of March or April, 1970, in the Southern District of New York, RIGOBERTO ROSAL-RODRIGUEZ, a/k/a "Blanco Serra", a/k/a "Blanquito Serra",

a/k/a "Rigo", a/k/a "Rigo Rosal", a/k/a "Roberto", the defendant, unlawfully, wilfully and knowingly did receive, conceal, buy, sell and facilitate the transportation, concealment and sale of a narcotic drug, to wit, approximately one kilogram of heroin, after the said narcotic drug had been imported and brought into the United States contrary to law, knowing that the said narcotic drug had theretofore been imported and brought into the United States contrary to law in that the importation and bringing of any narcotic drug into the United States, except such amounts of crude opium and coca leaves as the Director of the Bureau of Narcotics and Dangerous Drugs finds to be necessary to provide for medical and legitimate uses only, is prohibited.

(Title 21, United States Code, Sections 173 and 174 and Title 18, United States Code, Section 2.)

COUNT FOURTEEN

The Grand Jury further charges:

In or about the month of March or April, 1970, in the Southern District of New York, JOSE OTERO, a/k/a "Pepe", the defendant, unlawfully, wilfully and knowingly did receive, conceal, buy, sell and facilitate the transportation, concealment and sale of a narcotic drug, to wit, approximately one kilogram of heroin, after the said narcotic drug had been imported and brought into the United States contrary to law, knowing that the said narcotic drug had theretofore been imported and brought into the United States contrary to law in that the importation and bringing of any narcotic drug into the United States, except such amounts of crude opium and coca leaves as the Director of the Bureau of Narcotics and Dangerous Drugs finds to be necessary to provide for medical and legitimate uses only, is prohibited.

(Title 21, United States Code, Sections 173 and 174 and Title 18, United States Code, Section 2.)

COUNT FIFTEEN

The Grand Jury further charges:

In or about the month of March or April, 1970, in the Southern District of New York, JOSE RAMIREZ-RAMOS, a/k/a Jose Ramirez, a/k/a "Chevas", the defendant, unlawfully, wilfully and knowingly did receive, conceal, buy, sell and facilitate the transportation, concealment and sale of a narcotic drug, to wit, approximately 1/2 kilogram of heroin, after the said narcotic drug had been imported and brought into the United States contrary to law, knowing that the said narcotic drug had theretofore been imported and brought into the United States contrary to law in that the importation and bringing of any narcotic drug into the United States, except such amounts of crude opium and coca leaves as the Director of the Bureau of Narcotics and Dangerous Drugs finds to be necessary to provide for medical and legitimate uses only, is prohibited.

(Title 21, United States Code, Sections 173 and 174 and Title 18, United States Code, Section 2.)

COUNT SIXTEEN

The Grand Jury further charges:

In or about the month of March or April, 1970, in the Southern District of New York, JOHN DOE, a/k/a Roberto Lopez, the defendant, unlawfully, wilfully and knowingly did receive, conceal, buy, sell and facilitate the transportation, concealment and sale of a narcotic drug, to wit, approximately 1/2 kilogram of heroin, after the said narcotic drug had been imported and brought into the United States contrary to law, knowing that the said narcotic drug had theretofore been imported and brought into the United States contrary to law in that the importation and bringing of any narcotic drug into the United States, except such amounts of crude opium and coca leaves as the Director of the Bureau of Narcotics and Dangerous Drugs finds to be necessary to provide for medical and

legitimate uses only, is prohibited.

(Title 21, United States Code, Sections 173 and 174
and Title 18, United States Code, Section 2.)

COUNT SEVENTEEN

The Grand Jury further charges:

In or about the month of March or April, 1970,
in the Southern District of New York, JOSE ANGEL AGUILERA,
a/k/a Jose Alberto Aguilera, a/k/a "El Moro", a/k/a "Mauro",
a/k/a "Moscoso", the defendant, unlawfully, wilfully and
knowingly did receive, conceal, buy, sell and facilitate
the transportation, concealment and sale of a narcotic
drug, to wit, approximately 1/2 kilogram of heroin, after
the said narcotic drug had been imported and brought into
the United States contrary to law, knowing that the said
narcotic drug had theretofore been imported and brought
into the United States contrary to law in that the importation
and bringing of any narcotic drug into the United States,
except such amounts of crude opium and coca leaves as
the Director of the Bureau of Narcotics and Dangerous
Drugs finds to be necessary to provide for medical and
legitimate uses only, is prohibited.

(Title 21, United States Code, Sections 173 and 174
and Title 18, United States Code, Section 2.)

FOREMAN

Paul J. Curran

PAUL J. CURRAN
United States Attorney

A TRUE COPY
RAYMOND F. BURGARDT, Clerk.

By *E. A. Becker*

Deputy Clerk

CHARGE TO THE JURY

THE COURT: Mr. Koch, ladies and gentlemen of the Jury:

Before I commence I notice that Juror No. 9 is taking notes. There are no notes taken in the courtroom. If you want any testimony read back, the court reporter will read back the exact words that were said. If you want the charge read back after you hear it, the court reporter will read the exact words that I said. You have that right to ask if you so desire it.

Mr. Koch, ladies and gentlemen of the jury:

We have now reached the point in this trial where you are about to enter upon your final function as jurors, which is, of course, one of the sacred duties of citizenship. You have given careful attention to the evidence during the course of the trial, and I am certain that you will conduct your deliberations in the same fine spirit that you have so far displayed and with impartiality and fairness reach a just verdict in this case.

In our court system the functions of the Judge and the functions of the jury are clearly defined. It is my duty to instruct you as to what the law is; it is your duty to accept the law as I explain it to you. Just as I am the exclusive judge of the law, so you are the exclusive

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judges of the facts. You alone determine the credibility
of the witnesses, and the weight, effect and value that
should be given to their testimony. It is up to you to
determine from the evidence which you have heard what
the facts are in this case, and from those facts decide
whether the defendant has violated the law.

This is a criminal prosecution in which the
Government is one party and the defendant is the other.
The fact that the Government is a party entitles it to no
greater and to no lesser consideration than any other
party. It is entitled to the same consideration as given
to the defendant, no more and no less.

This case must be decided within the scope of
the charges against the defendant as contained
in the indictment, but before discussing the law applicable
to the charges of this indictment, let us consider some
general principles which apply to every criminal case.

An indictment itself is not evidence. It
merely describes the charges made against the defendant
and may not be considered by you as evidence of the guilt
of the defendant. Nor can the fact that a grand jury
has found this indictment in any way detract from the
presumption of innocence with which the law surrounds
the defendant unless and until his guilt is proved

beyond a reasonable doubt.

Each of the two counts which you will consider allege the commission of a separate and distinct offense. It will be necessary for you to reach a verdict of guilty or not guilty as to each count of the indictment. You must consider and weigh the evidence separately as to each count. The fact that you may find the defendant guilty or not guilty of one of the offenses charged should not control or influence your verdict with respect to any other offense with which the defendant is charged.

The defendant has denied the charges in the indictment. By his plea of not guilty he has put into issue every material fact alleged in the accusations brought against him. Accordingly, the Government having made the charge, has the burden of proving beyond a reasonable doubt each material element of each count of the indictment. This burden never shifts. It remains with the Government throughout the entire trial and during your deliberations as jurors.

A defendant does not have to prove his innocence. He is presumed to be innocent, and this presumption is overcome only when you reach a conclusion from the evidence that his guilt has been established beyond a reasonable doubt.

2 Now, what is meant by a reasonable doubt? There is
3 nothing mysterious about it. It means, as the words themselves
4 indicate, a doubt based upon reason and common sense which arises
5 after consideration of all the evidence. Reasonable doubt is a
6 doubt which would cause reasonable persons to hesitate to act
7 in matters of importance to themselves. It is not a vague,
8 speculative, imaginary something and a person may not be con-
9 jecture. On the other hand, a reasonable doubt does not exist
10 merely because a juror does not wish to perform an unpleasant
11 duty. A reasonable doubt may arise not only from the evidence
12 produced but also from the lack of evidence.

13 A defendant may also rely upon evidence brought
14 out on cross examination of any of the witnesses who have
15 testified on behalf of the Government.

16 Now, it is not necessary for the Government to
17 prove the guilt of the defendant beyond any possible doubt.
18 Proof is usually not a matter of mathematical or absolute
19 certainty. In the nature of things it cannot be; but to
20 sustain a conviction there must be such proof as satisfies your
21 reason as intelligent people, beyond any reasonable doubt, that
22 the defendant is guilty as charged.

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2 If you do not have a reasonable doubt of the
3 defendant's guilt as to the material elements of a charge,
4 then you should return a verdict of guilty on that
5 count. If, on the other hand, you do have a reasonable
6 doubt as to the defendant's guilt as to any of the material
7 elements of the crime charged, then you must return a
8 verdict of not guilty as to that count.

9 If the evidence is susceptible of two interpreta-
10 tions, each of which appears to you to be reasonable, and
11 one of which points to the guilt of the defendant and the
12 other to his innocence, it is your duty under the law
13 to adopt that interpretation or conclusion which will
14 admit of the defendant's innocence and reject that which points
15 to his guilt.

16 This trial has been a short one and you have just
17 heard the summations of counsel in which they pointed out
18 the various portions of the proof on which they say you
19 should rely to render a verdict in favor of their client.
20 I see no reason to further detail the contentions of the
21 parties or the specific proof to substantiate those con-
22 tentions.

23 Now, the first count of the indictment is called
24 the conspiracy count. It charges that from on or about
25 December 1, 1969 until April 30, 1971, a number of persons,

2 including Raul Ortega, Luis Reyes, Jorge Infiesta, Joaquin
3 Prada, Hector Echevarria, Charles Busigo-Cifre, Jose Sarria,
4 Jose Otero, Cirillo Figueroa, Roberto Lopez, Carlo Tapanes,
5 and the Defendant Ramirez-Gonzalez, unlawfully, knowingly
6 and wilfully conspired with each other and with Ramiro-
7 Gonzales and Miguel Rodriguez and others to the grand jury
8 known and unknown, to violate Section 174 of Title 21 of the
9 United States Code.

10 Now, Section 174 makes it a crime for any person
11 to receive, conceal, buy, sell or in any manner
12 facilitate the transportation or concealment or sale of any
13 narcotic drug after being imported or brought into the
14 United States knowing the drug to have been brought into
15 the United States contrary to law.

16 Now, what is a conspiracy? It is a combination
17 or agreement by two or more persons, by concerted action,
18 to accomplish a criminal or unlawful purpose, and one
19 or more of the persons who are members of the conspiracy
20 does any act to effect or further the object of the conspir-
21 acy. It is a partnership in criminal purposes in which
22 each member becomes the agent of every other member, and is
23 a crime in itself. To prove a conspiracy here, the
24 evidence must show beyond a reasonable doubt the existence
25 of each one of the following material elements:

First, that the conspiracy described was formed and existing at or about the time alleged;

Second, that the purpose of the conspiracy was to receive, conceal, possess, sell and facilitate the transportation, concealment and sale of large quantities of narcotics drugs, to wit, heroin, after the heroin had been imported and brought into the United States contrary to law knowing that the said narcotic drugs had been imported and brought into the United States contrary to law.

Third, that the defendant knowingly and wilfully became a member of the conspiracy;

Fourth, that one of the conspirators thereafter knowingly committed at least one of the overt acts charged in the indictment, at or about the time and place alleged;

And fifth, that such overt act was committed in furtherance of some object or purpose of the conspiracy. as charged. Now, as to the formation of the conspiracy, it is not necessary that there be proof that the participants met together and entered into a formal or written agreement, or that they directly stated between themselves what their object or purpose was to be, or the details of the plans, or the means by which the purpose was to be achieved. Indeed, it would be extraordinary were the members of a conspiracy to set forth all the actual details of their arrangements

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2 in a formal and written agreement. When persons, in fact,
3 embark together upon a criminal conspiracy, much
4 is often unexpressed, much is left to unwritten understanding.

5 Generally, such a criminal conspiracy is a
6 matter of inference, deduced from the acts and statements
7 of the alleged conspirators.

8 What the evidence must show in order to establish
9 that a conspiracy existed is that the members in some
10 way or other, positively or tacitly, came to a mutual
11 understanding to engage in a common unlawful agreement
12 to violate Section 174 of the federal narcotics laws which
13 I have described for you. All of the members need not
14 have joined at the inception of the agreement, and I
15 will discuss this more fully with you later on.

16 In determining whether or not there was such an
17 unlawful agreement, you may judge the acts and conduct
18 of each of the alleged conspirators as a whole and the
19 reasonable inferences to be drawn from such evidence.

20 An unlawful agreement may exist even though
21 the individual conspirators may have done some acts in
22 furtherance of the common unlawful purpose apart from, or
23 unknown to the others.

24 What you must determine as to this element is
25 whether the conspiracy charged in the indictment existed

between two or more of the alleged conspirators. If you find that no such conspiracy existed, then you must acquit the defendant on Count 1.

In determining whether the alleged conspiracy exists, you may consider what the evidence shows as to changes in personnel and activity. You may find a single conspiracy even though there were changes in personnel or activities, provided that you find that some of the conspirators continued throughout the life of the conspiracy and that the purposes of the conspiracy continued to be those charged in the indictment.

The fact that the parties are not always identical does not mean that there are separate conspiracies. In other words, if at all times the alleged conspiracy had the same overall primary purpose and the same nucleus of participants, the conspiracy would be the same basic scheme even though in the course of its operation, additional conspirators joined in and performed additional functions to carry out the scheme while others were not active or had terminated their relationship.

If you satisfy yourselves beyond a reasonable doubt that the conspiracy as alleged in the indictment existed, then you must determine whether the Defendant Ramirez knowingly and wilfully was an active participant in the

unlawful plan, with the intention of furthering its objectives.

You may find that the defendant acted knowingly and wilfully if he acted voluntarily and purposely and with specific intent to do something which the law forbids. That is to say, he must have acted with evil motive or had purpose to disobey or disregard the law, and not because of negligence, mistake or other innocent reason.

It is obviously impossible to ascertain or prove directly what a person knew or intended. You cannot look into a person's mind and see what his intentions were or what he knew. But a careful and intelligent consideration of the facts and circumstances shown by the evidence in any given case, as to a person's actions and statements, enables us to infer with a reasonable degree of certainty and accuracy what his intentions were in doing or not doing certain things, and the state of his knowledge.

In order for you to find that the defendant was a member of the conspiracy charged in the indictment, you must find that he knew what its unlawful purpose was, and that he had a stake or personal interest in it, as distinguished from acting exclusively on his own. The scope of the defendant's agreement must be determined individually from what was proved as to that defendant.

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2 In order for a defendant to be held for joining
3 others in a conspiracy, he must in some sense promote their
4 venture himself or make it his own.

5 Thus, it becomes essential for you to determine
6 just what a defendant was promoting and making his own.
7 In this regard, it is not required that each of the
8 conspirators participate in, or have knowledge of, all
9 of the conspiracy's operations. The guilt of a conspirator
10 is not governed by the extent of his participation; he
11 need not know all of the alleged conspirators.

12 Now, a single act of a defendant, such as a
13 purchase of heroin from a member of a conspiracy, may be
14 sufficient to draw that defendant within the ambit of the con-
15 spiracy.

16 However, since conviction for conspiracy requires
17 an intent to participate in the unlawful enterprise, the
18 single act itself must be such that you may reasonably
19 infer from it such an intent, or there must be independent
20 evidence tending to prove that a defendant had some
21 knowledge of the broader conspiracy beyond his single act.

22 You may consider the quantity of heroin purchased,
23 its cost and the circumstances under which the purchase
24 was made as bearing on a defendant's intent to participate
25 in a conspiracy.

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2 You may find from such facts that the conspirators
3 at one end knew business could not stop with their buyers,
4 and that the conspirators at the other end knew it did
5 not begin with their sellers.

6 Such facts may prove that each level of operation
7 depended upon the existence of the other, and the mutual
8 interdependence of each level was fully understood and
9 appreciated by the defendant.

10 I want to caution you, however, that mere
11 association with one or more of the alleged conspirators
12 does not make one a member of the conspiracy. Nor is
13 knowledge without participation sufficient to make one a
14 conspirator.

15 Now, it is not necessary that all conspirators
16 have participated in the alleged conspiracy from its
17 inception. A person who comes in at a later point with
18 knowledge of the conspiracy's general operation, although
19 not necessarily of all its details, and who intentionally
20 acts in a way to further the unlawful goals, becomes a
21 member of the conspiracy and is legally responsible for
22 all that may be or has been done in furtherance of the
23 common criminal objective.

24 In determining whether or not a particular defendant
25 was a member of a conspiracy, you may consider evidence of

his own acts, statements and conduct, as well as the evidence of the acts, statements and conduct of other, alleged co-conspirators and the reasonable inferences to be drawn from such evidence.

The alleged purpose of the conspiracy is that the defendants would buy, or sell, or receive, or conceal, or in any manner facilitate the transportation or concealment or sale of illegally imported heroin.

Since the purpose of the alleged conspiracy was to deal in heroin that was illegally imported, before you find the defendant was a member of the conspiracy, you must be convinced beyond a reasonable doubt that he had knowledge of the heroin's illegal importation.

Now, the Government has not introduced proof of each defendant's knowledge that the heroin was illegally imported. Instead, the Government relies on an inference to show this knowledge, which I will explain to you later on in this charge in connection with the substantive count, and which will apply equally as well to this conspiracy count.

The indictment alleges that the conspiracy commenced on or about December 1, 1969 and continued to April 30, 1971, the date the indictment was filed. The Government, however, is not required to prove that the

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2 alleged conspiracy existed over the whole course of time
3 set out in the indictment. It is sufficient if you find at
4 any time within that period all of the elements of the
5 alleged conspiracy have been proven to your satisfaction
6 beyond a reasonable doubt.

7 The fact that the Government may not have proved
8 that the conspiracy was carried on as early or as long as
9 the indictment alleges is not of any importance so far as
10 the elements of the crime are concerned.

11 Now, the next element that must be proved on
12 this issue of conspiracy is the requirement of an overt act.
13 You may not find a defendant guilty of conspiracy unless
14 you are convinced beyond a reasonable doubt that one of
15 the conspirators knowingly committed one of the overt
16 acts charged in the indictment.

17 The Government need not prove the commission
18 of all of the overt acts charged in the indictment. By
19 the term "overt act" is meant any act committed by one of
20 the conspirators in an effort to effect or accomplish
21 some object or purpose of the conspiracy. It must be
22 done knowingly in furtherance of some object or purpose
23 of the conspiracy charged in the indictment.

24 The overt act need not be criminal in nature,
25 if considered separately and apart from the conspiracy.

It may be as innocent as the act of a man walking across the street or using a telephone.

The overt acts referred to in this indictment are (1), on or about March 13, 1970, the Defendant Joaquin Prada and co-conspirators Ramiro-Gonzalez and Miguel Rodriguez delivered approximately one kilogram of heroin at the CBC gas station, 2120 Amsterdam Avenue, New York.

(2) On or about March 31, 1970, the Defendant Carlos Tapanes delivered approximately one kilogram of heroin in the parking lot of the Hicksville Diner, Old Country Road and South Oyster Bay Road, Hicksville, Long Island.

(3) In or about March or April, 1970, the Defendant Jose Otero received approximately one kilogram of heroin in the vicinity of the Cuba Bar, 1475 St. Nicholas Avenue.

(4) In or about March or April 1970, the Defendant Jose Ramirez-Ramos received approximately a half kilogram of heroin at the El Bayames Restaurant, 1279 St. Nicholas Avenue.

The fact that the defendant is not named in an overt act is of no importance because once you find that a conspiracy existed and that a defendant on trial was a member of a conspiracy, then he is bound by the acts done and

statements made by any other member in furtherance of that conspiracy, even in the absence of such defendant.

Once you have determined that the offense has been established under the guidelines I have just given you, then the crime of conspiracy is complete as to every person found by you to be knowingly and wilfully a member of the conspiracy.

Furthermore, at this point, the success or failure of the conspiracy to accomplish the common object or purpose is immaterial.

Now, the second count of the indictment which you will have to consider is known as the substantive count, and it charges a separate violation of Section 174 of the federal narcotics laws. This count charges that in or about March or April 1970, the defendant unlawfully, knowingly and wilfully did receive, or conceal, or buy or sell or facilitate the transportation or concealment or sale of one half kilo of heroin which had been illegally imported into the United States knowing the same to have been imported contrary to law.

In order for you to find the defendant guilty of the charge contained in this count, you must be convinced that the following material elements have been proved beyond a reasonable doubt.

1 mef
2 First, that on or about March or April 1970,
3 the defendant wilfully and knowingly bought heroin from
4 Rodriguez.

5 Second, that the substance referred to in the
6 count is a narcotic drug, specifically, that it is heroin.

7 Third, that the heroin was illegally imported
8 into the United States.

9 Fourth, that the defendant knew that the heroin
10 involved had been illegally imported into the United
11 States.

12 What I said previously about the words
13 "knowingly" and "wilfully" in discussing the conspiracy count
14 applies equally as well here.

15 Under the second element you must find beyond
16 a reasonable doubt that the substance referred to in this
17 count is in fact heroin. Now, the Government did not
18 produce the heroin which it claims was transferred by
19 Rodriguez to this defendant. However, just as with any
20 other component of a crime, the existence of and dealing
21 with narcotics may be proved by circumstantial evidence.
22 No sample need be placed before the jury, nor need there
23 be testimony by chemists as to the nature of the substance
24 bought, as long as the evidence furnishes ground for
25 inferring that the material in question was in fact heroin.

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In addition to relying on the testimony of Rodriguez that the substance which he sold to the defendant was heroin, the Government urges that you consider the following circumstantial evidence in determining whether the substance was in fact heroin.

First, the secrecy and deviousness with which the alleged transactions were handled;

Second, the high prices the Government contends were paid in cash for substance;

Third, the alleged lack of complaint on the part of the defendant as to the quality of his purchases;

And fourth, Rodriguez' testimony that at the cutting sessions masks were worn to prevent the participants from getting intoxicated from the heroin.

If you believe such testimony, you may draw the inference that the substance was in fact heroin.

In addition, you may consider the testimony offered by the Government as to the two kilogram quantity of heroin which it claims had been sold to federal undercover agents Tumillo and Angioletti by Rodriguez from the shipment we are discussing.

The defendant has stipulated that the substance sold to the agents was heroin.

The third and fourth elements that the Government

1 must prove beyond a reasonable doubt are that the heroin,
2 which was sold, to this defendant, was illegally imported
3 and that he knew it was illegally imported. In connection
4 with my charge on the conspiracy count, I told you
5 that in order to find the defendant guilty on that count,
6 the Government must prove that he knew that the heroin
7 which was the object of that conspiracy was illegally
8 imported.
9

10 I also told you that I would discuss that element
11 more fully in connection with the substantive count.
12 What I say here you will consider in connection with deter-
13 mining the guilt or innocence of the defendant under the
14 conspiracy count as well as under this count.

15 The Government has not offered direct evidence
16 concerning the defendant's knowledge of illegal importation.
17 In order to meet its burden on these elements, the
18 Government relies upon a law which permits a jury, whenever
19 it finds that a person had knowing possession of heroin to
20 draw an inference that the heroin was illegally imported,
21 and, further that such person knew that the heroin was
22 illegally imported.

23 If the Government demonstrates beyond a
24 reasonable doubt that the defendant had possession of
25 what in fact was heroin, and there is no satisfactory

1
2 explanation of this possession, you may infer, if you
3 wish, that the heroin was illegally imported and that
4 the defendant knew that it was illegally imported.

5 In determining the guilt or innocence of a
6 defendant, you must decide that question solely from the
7 evidence which you heard from the witness stand and the
8 exhibits that have been placed before you.

9 The summations of counsel which you have heard
10 are not to be considered as evidence, but only as arguments
11 to you as to what counsel feel you should find from the
12 evidence.

13 In determining the issues in this case, it is your
14 recollection of the testimony that is to control and not
15 that of Court or counsel.

16 If, during the course of the trial, the Court
17 sustained an objection by one counsel to a question asked
18 by the examining counsel, you are to disregard the
19 question and any alleged facts contained in that question,
20 and you may not speculate as to what the answer would have
21 been.

22 Now, there are, generally speaking, two types
23 of evidence from which a jury may properly find the
24 truth as to the facts of the case. One is direct evidence,
25 such as the testimony of an eyewitness. The other is

1
2 indirect or circumstantial evidence which is the proof
3 of a chain of circumstances pointing to the existence
4 or nonexistence of certain facts.

5 Circumstantial evidence is the proof of facts
6 from which you may reasonably infer a material element
7 of the crime.

8 Let us take one simple example to illustrate
9 what is meant by circumstantial evidence. We will assume
10 that when you entered the courthouse this morning the
11 sun was shining brightly outside, it was a clear day, there
12 was no rain.

13 Now, assume that in this courtroom the blinds are
14 drawn, that you cannot look outside. Assume as you are
15 sitting in the jury box, and despite the fact that it
16 was dry when you entered the building, someone walks
17 in with an umbrella dripping water, followed in a short time
18 by someone wearing a raincoat which is wet. If you are
19 asked whether it is raining now, you cannot say that you
20 know it directly of your own observation. But certainly
21 upon the combination of facts which I have stated to you,
22 even though when you entered the building it was not raining
23 outside, it would be reasonable and logical for you to
24 conclude that it is raining now.

25 That's all there is to circumstantial evidence.

You may draw such inferences as reason and common sense lead you to draw from facts which you find to have been proven. Great care must be exercised when drawing inferences from circumstances proved in criminal cases, and mere suspicion will not warrant a conviction.

However, no greater degree of certainty is required of circumstantial evidence than is required of direct evidence. It is not on any different or lower plane than direct evidence. The law simply requires that in either case you must be convinced beyond a reasonable doubt of the guilt of the defendant.

In your search for the truth you must use plain every day common sense. You must not be governed by sympathy, bias or prejudice. You have seen the witnesses on the stand and observed their manner of giving testimony. When I refer to witnesses, I of course include the defendant who has testified. How did the witnesses impress you? Did they appear to be testifying frankly, candidly and fairly? In determining what degree of credit you should give a witness' testimony, you may consider his conduct, his manner of testifying and his interest in the outcome of the trial.

You should also consider his relationship to the Government or the defendant, his bias or impartiality

1 and any motive he may have to testify falsely. It does
2 not necessarily follow, of course, that because a person
3 is interested in the result, he is incapable of telling
4 a truthful version of an occurrence. The defendant has
5 testified in this case. A defendant who wishes to testify
6 is a competent witness and his testimony is to be judged
7 in the same way as that of any other witness.
8

9 You have heard the testimony of Miguel Rodriguez
10 who is alleged to have been a co-conspirator with the de-
11 fendant on trial. The testimony of an alleged accomplice
12 should be received with great caution and scrutinized
13 with care. This does not mean that such testimony, if
14 believed by you, is of any different or lesser quality
15 than any other evidence.

16 It should be considered by you after giving it
17 whatever weight you think it deserves along with all the
18 other evidence in the case in determining whether the
19 guilt of a defendant has been proved beyond a reasonable
20 doubt.

21 You may find a verdict of guilty solely on the
22 uncorroborated testimony of an accomplice if you believe
23 that testimony beyond a reasonable doubt.

24 If you believe that a witness wilfully testified
25 falsely as to any material fact, you may disregard his

1 testimony altogether or you may accept that part of his
2 testimony which you believe worthy of credence. What
3 you accept or reject as credible evidence is for you
4 to determine but you may not go outside the evidence and
5 speculate as to the facts. Quality of the testimony of
6 the particular witnesses regardless of who calls them,
7 rather than the quantity of witnesses is the test to be
8 used in arriving at your decision.
9

10 There is no presumption that the witnesses for
11 the Government are more or less truthful or credible than
12 the witnesses for the defendant.

13 Evidence that a witness has been convicted of
14 a crime may only be considered by you in assessing his
15 credibility as a witness and the weight that you would give
16 to his testimony.

17 You should consider a witness' entire testimony,
18 his direct examination, his cross examination, and his re-
19 direct examination.

20 You should consider the strength or weakness of
21 his recollection in the light of all the testimony and
22 attendant circumstances in the case. You may call for
23 any exhibits which you desire to see in conjunction with
24 your deliberations.

25 You may call for a reading of any portion of

the official transcript of the evidence or any portion of this charge.

You are instructed that the question of possible punishment of the defendant in the event of conviction is no concern of the jury and should not in any sense enter into or influence your deliberations.

The duty of imposing sentence in the event of conviction rests exclusively upon the Court. The function of the jury is to weigh the evidence in the case and determine the guilt or innocence of the defendant solely upon the basis of such evidence.

I have sought to avoid any comments which might suggest that I have personal views on the evidence or that I have any opinion as to the guilt or innocence of the defendant, and you are not to assume that I have any such views or opinions. This charge is given to you solely to instruct you as to what the law is in the case. The actions of the Judge during the trial in granting or denying motions or ruling on objections by counsel, or in statements to counsel, or in attempting to clearly set forth the law in these instructions, are not to be taken by you as any indication of any determination of the issues of fact. These matters, the actions of the Court, relate to procedure and law. You, the members of the

jury, determine the facts.

There are 12 members on this jury and all of you must agree on any verdict you reach as to the defendant on any counts of the indictment which you are considering.

This case is obviously an important one to the defendant. It is equally important to the Government. I am giving it to you in complete confidence that you will comply with your oath as jurors and decide the case fairly and impartially and without fear or favor.

If there are any exceptions to the charge I will take them in the robing room. Mr. Corbett?

MR. CORBETT: No exceptions, sir.

THE COURT: Swear in the marshals.

(Marshals sworn.)

THE COURT: At this time, Mrs. Janewsky and Mr. Nugget, you are excused with the thanks of the Court. You will not participate in the deliberations of the jury. If you have anything in the jury room, will you kindly go in and get it before the jury goes out. And you are to report back to the first floor, to the jury assembly room. The clerk will give you your card.

THE COURT: All right, Mr. Koch and ladies and gentlemen of the jury, you may retire to the jury room to conduct your deliberations.

(Jury retired 11:50 a.m.)

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